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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10 **WESTERN DIVISION**  
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12 STAR FABRICS, INC.,  
13 Plaintiff,  
14 v.  
15 SWEET LEMON, INC., et al.  
16 Defendants.  
17

No. 2:25-cv-06032-BFM

**ORDER DISMISSING CASE  
FOR FAILURE TO  
PROSECUTE AND COMPLY  
WITH COURT ORDERS**

18  
19 **I.**  
20 **BACKGROUND**

21 On July 2, 2025, Plaintiff Star Fabrics, Inc. filed a Complaint alleging a  
22 single claim of copyright infringement. (ECF 1.) Plaintiff served the Complaint  
23 on all Defendants (ECF 8-10) and subsequently filed a Notice of Dismissal of  
24 Defendant Lulus Fashion Lounge, LLC on August 22, 2025 (ECF 13). No other  
25 Defendant has responded to the Complaint or otherwise made an appearance,  
26 and Plaintiff has not moved for entry of a default against those Defendants.

27 On August 26, 2026, the Court ordered Plaintiff to show cause why this  
28 action should not be dismissed for lack of prosecution. (ECF 14.) The Court

1 ordered Plaintiff to respond by September 2, 2025. (ECF 14.) Plaintiff has not  
2 responded to the Court's Order, and no Defendant has since made an  
3 appearance.

## 4 II.

### 5 DISCUSSION

6 It is well established that a district court has authority to dismiss a  
7 plaintiff's action because of his or her failure to prosecute or to comply with court  
8 orders. *See* Fed. R. Civ. P. 41(b); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-30  
9 (1962) (holding that a court's authority to dismiss for lack of prosecution is  
10 necessary to prevent undue delays in the disposition of pending cases and to  
11 avoid congestion in the calendars of the district courts); *Ferdik v. Bonzelet*, 963  
12 F.2d 1258, 1260 (9th Cir. 1992) (holding that a district court may dismiss an  
13 action for failure to comply with any order of the court).

14 In determining whether to dismiss this action due to Plaintiff's failure to  
15 prosecute or to comply with court orders, the Court must consider the following  
16 five factors: "(1) the public's interest in expeditious resolution of litigation; (2)  
17 the court's need to manage its docket; (3) the risk of prejudice to the defendants;  
18 (4) the public policy favoring disposition of cases on their merits[;] and (5) the  
19 availability of less drastic sanctions." *Carey v. King*, 856 F.2d 1439, 1440 (9th  
20 Cir. 1988) (per curiam) (citation and quotation marks omitted); *see also In re*  
21 *Eisen*, 31 F.3d 1447, 1451 (9th Cir. 1994) (failure to prosecute); *Ferdik*, 963 F.2d  
22 at 1260-61 (failure to comply with court orders).

23 The first two factors—the public's interest in expeditious resolution of  
24 litigation and the Court's need to manage its docket—weigh in favor of  
25 dismissal. Plaintiff has not responded to the Court's August 26, 2025, Order  
26 (ECF 14). Plaintiff's failure to prosecute and failure to follow court orders  
27 hinders the Court's ability to move this case toward disposition and indicates  
28 that Plaintiff does not intend to litigate this action diligently.

1       The third factor—prejudice to defendants—also weighs in favor of  
2 dismissal. A rebuttable presumption of prejudice to defendants arises when a  
3 plaintiff unreasonably delays prosecution of an action. *Eisen*, 31 F.3d at 1452-  
4 53. Nothing suggests that such a presumption is unwarranted in this case.

5       The fourth factor—public policy in favor of deciding cases on their  
6 merits—ordinarily weighs against dismissal. It is Plaintiff's responsibility,  
7 however, to move its case toward a disposition at a reasonable pace and to avoid  
8 dilatory and evasive tactics. *See Morris v. Morgan Stanley Co.*, 942 F.2d 648,  
9 652 (9th Cir. 1991). Plaintiff has not discharged this responsibility despite  
10 having been instructed on its responsibilities and granted sufficient time in  
11 which to discharge them. (*See* ECF 14.) Under these circumstances, the public  
12 policy favoring resolution of disputes on the merits does not outweigh Plaintiff's  
13 failure to comply with court orders, or to file responsive documents within the  
14 time granted.

15       The fifth factor—availability of less drastic sanctions—weighs in favor of  
16 dismissal. The Court attempted to avoid dismissal when it issued its August 26,  
17 2025, Order, giving Plaintiff an opportunity to show cause why this case should  
18 not be dismissed. Nonetheless, as of the date of this Order, Plaintiff has failed  
19 take any action or otherwise respond to that Order. The Court cannot move the  
20 case toward disposition without Plaintiff's compliance with court orders or  
21 participation in this litigation.

22       Taking the above factors into account, dismissal for failure to prosecute  
23 and to follow court orders is appropriate. Such a dismissal, however, should not  
24 be entered unless Plaintiff has been notified that dismissal is imminent. *See W.*  
25 *Coast Theater Corp. v. City of Portland*, 897 F.2d 1519, 1523 (9th Cir. 1990). In  
26 this case, Plaintiff was cautioned about the possibility of dismissal in the Court's  
27 August 26, 2025, Order. (ECF 14.)  
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1 **III.**

2 **CONCLUSION**

3 For these reasons, the Court **DISMISSES** this action without prejudice  
4 under Federal Rule of Civil Procedure 41(b) for failure to prosecute and comply  
5 with Court orders. **IT IS FURTHER ORDERED** that the Clerk of Court  
6 shall close this action.

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8 DATED: October 3, 2025



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BRIANNA FULLER MIRCHEFF  
11 UNITED STATES MAGISTRATE JUDGE  
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